

REMARKS

In an Office Action dated November 1, 2005 the Examiner rejects claims 1-4, 7-14, 17-24, 26-29, 35-38, and 41-44 (all pending claims). In response to the Office Action, Applicants cancel claims 1, 3-4, 7-14, 17-21, 23, 24, 26-29, 35, 37-38, and 41-44; adds claims 45-60; and respectfully traverse the rejection application. In light of the following arguments, Applicants respectfully request that this application be allowed.

Applicants have cancelled all pending claims. Applicants then submit new claims as to what the Applicant regards as the invention. No new matter is added by these amendments.

The Examiner rejects claim 1 and under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Number 4,918,730 issued to Schulze (Schulze). To anticipate a claim under 35 U.S.C. § 102, a single source must contain all of the elements of the claim. *Lewmar Marine Inc. v. Barient, Inc.*, 827 F.2d 744, 747, 3 U.S.P.Q.2d 1766, 1768 (Fed. Cir. 1987), cert. denied, 484 U.S. 1007 (1988). Moreover, the single source must disclose all of the claimed elements “arranged as in the claim.” *Structural Rubber Prods. Co. v. Park Rubber Co.*, 749 F.2d 707, 716, 223 U.S.P.Q. 1264, 1271 (Fed. Cir. 1984). The test for anticipation is symmetrical to the test for infringement and has been stated as: “That which would literally infringe [a claim] if later in time anticipates if earlier than the date of invention.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989); *Connell v. Sears Roebuck & Co.*, 722 F.2d 1542, 1548, 220 U.S.P.Q. 1931, 1938 (Fed. Cir. 1983). The Examiner has not provided a reference that teaches all of the elements of claim 1 and 3. Therefore, this rejection is inappropriate for new claim 45.

Specifically, claim 45 recites that the hop size of the segments of the sampled work is less than the hop size of the reference signatures. Schultze does not teach this limitation. As defined in the application and commonly understood in the art, hop size is the amount of overlapping data in consecutive segments. Schultze does not teach overlapping data in segments. Applicant has read the entirety of the Schultze application and has found nothing the application teaching the overlap of segments. The portion of Schultze cited by the Examiner as teaching claim 3 is Col. 2, lines 42-47 which do not teach the overlapping of segments. Instead, the cited portion teaches band limiting the received signals to account for delay distortions and has nothing whatsoever to do with overlapping data in a segment. Thus, all of the elements of claim 45 are not taught by Schultze. Thus, Applicant respectfully requests that claim 45 be allowed.

Claims 46-52 are dependent from claim 45. Thus, claims 46-52 are allowable for at least the same reasons as claim 45. Therefore, Applicants respectfully request that claims 46-52 be allowed.


Claim 53 recites an apparatus that performs the method of claim 45. Thus, Claim 53 is allowable for at least the same reasons as claim 45. Thus, Applicants respectfully request that claim 53 be allowed.

Claims 54-60 are dependent from claim 53. Thus, claims 54-60 are allowable for at least the same reasons as claim 53. Therefore, Applicants respectfully request that claims 54-60 be allowed.

If the Examiner has any questions regarding this response or the application in general, the Examiner is invited to telephone the undersigned at 775-586-9500.

Respectfully submitted,  
SIERRA PATENT GROUP, LTD.

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William P. Wilbar  
Reg. No.: 43,265

Sierra Patent Group, Ltd.  
1657 Hwy. 395, Suite 202  
Minden, NV 89423  
(775) 586-9500  
(775) 586-9550 Fax